

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

DENNIS EAST INTERNATIONAL, INC.,

Plaintiff,

V.

DOCKET NO: 04-11994-RWZ

ATHOME AMERICA, INC.,

Defendant.

## DEFENDANT, ATHOME AMERICA, INC.'S INITIAL DISCLOSURES

NOW COMES defendant, AtHome America, Inc. ("Defendant"), and, by and through its undersigned counsel, makes the following initial disclosures in accordance with Federal Rule of Civil Procedure 26(a)(1)&(2):

**(1) (A) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information;**

Please see Attachment A.

**(1) (B) a copy of, or a description by category and location of, all documents, data compilations, and tangible things in that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment;**

The Defendant responds that the following documents may be used by the Defendant to support its defenses:

1. Correspondence and documents evidencing communications between the Defendant and Dennis East International, Inc. (“Dennis East”);

2. Internal correspondence and documents evidencing internal communications of the Defendant relating to the purchase of products from Dennis East;
3. Invoices submitted by Dennis East to the Defendant and related documents;
4. Correspondence and documents evidencing communications between the Defendant and other international vendors and suppliers;
5. Internal correspondence and documents evidencing internal communications of the Defendant relating to the purchase of products from other international vendors; and
6. Catalogues and other graphic depictions of the works referenced in the plaintiff's Complaint and of other works;

The Defendant reserves the right to supplement this response, in accordance with applicable court rules.

**(1) (C) a computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.**

The Defendant does not presently claim any damages against Dennis East.

The Defendant reserves the right to supplement this response, in accordance with applicable court rules.

**(1) (D) for inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment.**

The Defendant agrees to produce a copy of the Defendant's insurance policy for inspection and copying a mutually convenient time and place.

**(2) (A) the name of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts described in Fed. R. Civ. P. 26(a)(2)(B), provide a separate written report satisfying the provisions of that rule;**

The Defendant has not yet determined which, if any, expert witnesses will be used at trial to present evidence. The Defendant reserves the right to supplement this response, in accordance with applicable court rules.

ATHOME AMERICA, INC.,

Defendant

By its attorneys

**MORRISON MAHONEY LLP**

/s/Michael J. Racette

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Nicholas P. Alexander, BBO #544173

Michael J. Racette, BBO #555350

250 Summer Street

Boston, MA 02210

(617) 439-7500

**ATTACHMENT A**

The following individuals, now or formerly associated with or employed by AtHome America, Inc., 35 5625 West 115<sup>th</sup> Street, Alsip, Illinois 60803, and who may be contacted through the Defendant's counsel (Nicholas Alexander and Michael J. Racette, at Morrison Mahoney LLP, 250 Summer Street, Boston, Massachusetts), are likely to have discoverable information concerning that claims alleged in the Complaint and the Defendant's defenses:

1. Ellen Wherman
2. June Sinkiewicz
3. Diane Yan
4. Carolyn Turek
5. James O'Toole
6. Dale Endriss
7. Suzanne Corne
8. Becky Wright
9. James Calcagno

The Defendant reserves the right to supplement this response, in accordance with applicable court rules.

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Defendants.

## CERTIFICATE OF SERVICE

This is to certify that I have this day served the foregoing Defendant's Initial Disclosures upon the Plaintiff, by causing a true and correct copy thereof to be deposited in the United States Mail, postage prepaid, addressed to Plaintiff's counsel of record as follows:

G. Arthur Hyland, Jr.  
Murphy & Murphy  
243 South Street  
Hyannis, MA 02601

This 31st day of October 2005.

/s/Michael J. Racette